



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,344	01/28/2008	Josef Ott	Q95051	5820

23373 7590 08/16/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

FULLER, ROBERT EDWARD

ART UNIT	PAPER NUMBER
----------	--------------

3676

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

08/16/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

Office Action Summary	Application No. 10/580,344	Applicant(s) OTT, JOSEF	
	Examiner ROBERT E. FULLER	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's submission, filed July 8, 2010, has been carefully considered. Examiner has withdrawn the claim objections, drawing objection, and some of the rejections under 35 U.S.C. 112 set forth in the previous Office Action, but has added new objections and rejections in response to the claim amendments. With respect to the prior art, examiner has modified the previous grounds of rejection in response to the claim amendments.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the face seal ring (mentioned on line 38 of page 3, and claimed in claim 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: The headings "Background of the Invention", "Summary of the Invention", "Brief Description of the Drawings", and "Detailed Description of the Invention" are missing from the specification. Also, the parts list on page 6 should be deleted.

The following corrections must also be made:

Page 3, line 25, it seems that "elastomeric thermoplastic plastic" should be changed to --thermoplastic elastomer-- to be more consistent with typical engineering terminology.

Page 5, line 22, "5" should be changed to --25--.

Page 5, line 23, "a over" should be deleted.

The rest of the specification should be checked for consistency with the drawings, and typographical errors.

Appropriate correction is required.

Claim Objections

4. Claims 12 is objected to because of the following informalities: The word "on" should be deleted from line 2. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 now recites that "the collar undergrips with a rim the second through opening," therefore the limitation in claim 6 that the collar is turned outward does not make sense. The collar cannot undergrip the second through opening while being turned outward.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 3, 4, and 6-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims appear to be a direct translation from a foreign language, and contain awkward grammar which makes it difficult to ascertain the meaning of the claims. For example, "the first through opening (6) is disposed in a wall (9)" is unclear because opening 6 is not really *in* wall 9. Wall 9 is basically attached to opening element 6 which

Art Unit: 3676

has a wall that forms an opening. The claim makes it sound as if there is a hole through wall 9, which is not the case.

The claims are being examined as best understood by the examiner.

Appropriate clarification and correction is required.

9. Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 and 13 recite a "harder" plastic, however there is no way for one to ascertain what the plastic is "harder" than. It is also unclear, with respect to claim 12, what the sealing surface is "softer" than. The claims should be amended to point out that the plastic of the ring and bearing bushing is harder than that of the body.

However, it should also be kept in mind that the claims do not actually point out that the body is made of plastic. Claim 1 merely recites an "elastomeric body". The specification provides basis for, as best understood by the examiner, a "thermoplastic elastomer", which is essentially a mixture of plastic and elastomer materials. The specification also provides basis for a "two-part composite" body, as discussed with respect to the Fig. 5 embodiment. The claims must be amended such that there is proper antecedent basis for the limitations in claims 11-13. Currently, there is a lack of antecedent basis for "the region of a sealing surface formed by a softer plastic". The claims are being examined as best understood by the examiner.

Appropriate clarification and correction is required.

Claim Rejections - 35 USC § 102

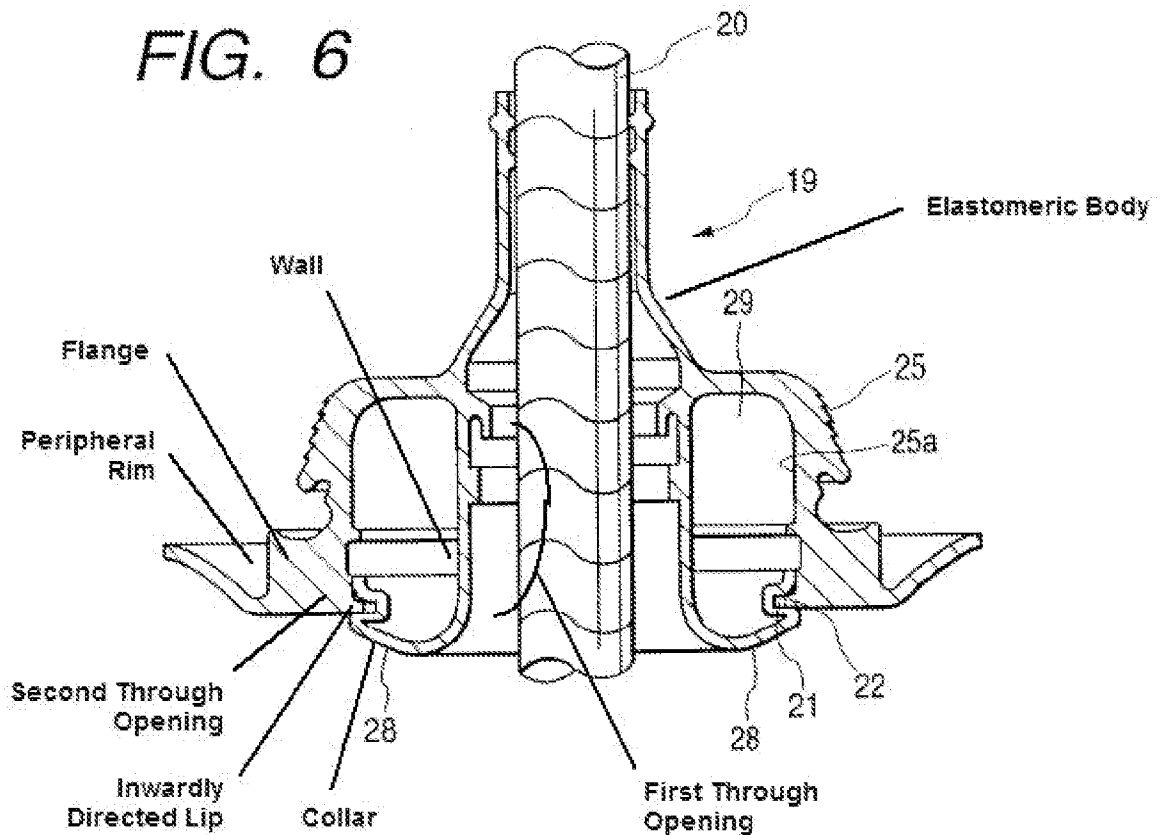
10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 3, 4, 6-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. (US 6,297,457).

With regard to claims 1 and 3, as best understood by the examiner, Yamada et al. disclose the claimed seal in Figs. 4-6. See Figure below for a detailed explanation.



With regard to claims 4 and 6, as best understood by the examiner, the collar is turned outward in the shape of a cup (see Fig. 4).

With regard to claim 7, the first opening actually begins at the curvature of the wall, proximate numeral 28. In that sense, the first opening can be considered to be above the second opening. In any case, the direction "above" is never positively defined in the claim with reference to any other part of the structure. Therefore, the first opening can be considered above or below the second opening.

With regard to claim 8, Yamada et al. disclose that the seal is for an automobile (column 1, line 12).

With regard to claim 10, Yamada et al. disclose a face seal ring (i.e. the lip on the wall--see Figure above).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. in view of Murata et al. (US 6,145,181).

Yamada et al. fail to disclose the seal being a wiper sleeve.

Murata et al. disclose a seal body similar to that of Yamada et al., which seals around a component of a windshield wiper assembly.

It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have utilized the seal of Yamada et al. as a wiper sleeve, as Murata et al. show that it was well-known to use such a seal with windshield wiper assemblies, and would have provided the predictable result of preventing debris from entering the vehicle body, while allowing for movement of the shaft.

14. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al.

As best understood by the examiner, Yamada et al. fail to disclose a portion of the seal (specifically the peripheral rim and the area of the collar contacting the shaft) being formed of a hard plastic.

It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have formed the peripheral rim and the sealing surface (i.e. the portion of the collar contacting shaft 3) of Yamada et al. of a hard plastic, since those areas are subject to significant stress as a result of movement of shaft 3 (as evident in Fig. 5), and the plastic material would have provided additional strength.

Response to Arguments

15. Applicant's arguments filed July 8, 2010 have been fully considered but they are not persuasive.

Applicant has argued that Yamada et al. fail to disclose "the first and second through openings are arranged at the front side", and "the collar is formed onto the wall close to the first through opening".

Examiner respectfully traverses. As can be seen in the Figure provided above, the first opening is at the front side of the seal, since the first opening starts at the curvature of the wall portion proximate numeral 28. The collar is also close to the first opening, as shown in the Figure. In any case, the terms "at" and "close to" are fairly broad. For example, the term "close to" certainly does not require the collar to be directly adjacent the first opening.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). *Examiner notes that the rejection based on Yamada et al. was modified slightly as can be seen in the Figure provided above. However, claim 1 now incorporates claim 5, which was previously not treated on the merits due to its improper multiple dependent form. Consequently claim 1 presented new issues which required further consideration.*

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT E. FULLER whose telephone number is (571)272-6300. The examiner can normally be reached on Monday thru Friday from 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shane Bomar can be reached on 571-272-7026. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shane Bomar/
Supervisory Patent Examiner, Art
Unit 3676

08/02/2010
/R.E.F./